

nonphysical evidence and legal arguments as he may wish to provide.

[73 FR 76536, Dec. 17, 2008]

§ 32.53 Review.

(a) Upon the filing of the approval (under subpart E of this part) of a claim, the Director shall review the same.

(b) The Director may review—

(1) Any claim denial made under subpart E of this part; and

(2) Any claim approval made under the Act, at 42 U.S.C. 3796c-1 or Public Law 107-37.

(c) Unless the Director judges that it would be unnecessary, the PSOB Office shall serve notice upon the claimant (and upon any other claimant who may have filed a claim with respect to the same public safety officer) of the initiation of a review under paragraph (a) or (b) of this section. Unless the Director judges that it would be unnecessary, such notice shall—

(1) Indicate the principal factual findings or legal conclusions at issue; and

(2) Offer a reasonable opportunity for filing of evidence or legal arguments.

§ 32.54 Director determination.

(a) Upon the Director's approving or denying a claim, the PSOB Office shall serve notice of the same simultaneously upon the claimant (and upon any other claimant who may have filed a claim with respect to the same public safety officer), and upon any Hearing Officer who made a determination with respect to the claim. In the event of a denial, such notice shall—

(1) Specify the factual findings and legal conclusions that support it; and

(2) Provide information as to judicial appeals (for the claimant or claimants).

(b) Upon a claimant's failure (without reasonable justification or excuse) to pursue in timely fashion the determination of his claim pursuant to his filed Director appeal, the Director may, at his discretion, deem the same to be abandoned, as though never filed. Not less than thirty-three days prior thereto, the PSOB Office shall serve the claimant with notice of the Director's intention to exercise such discretion.

(c) With respect to any claim before him, the Director, as appropriate, may—

(1) Remand the same to the PSOB Office, or to a Hearing Officer;

(2) Vacate any related determination under this part; or

(3) Refer any related matters to a Hearing Officer (as a special master), to recommend factual findings and dispositions in connection therewith.

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§ 32.55 Judicial appeal.

(a) Consistent with § 32.8, any approval or denial described in § 32.54(a) shall constitute the final agency determination.

(b) A claimant seeking relief from the denial of his claim may appeal judicially pursuant to the Act, at 42 U.S.C. 3796c-2.

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